Supreme Court of the United States

OCTOBER TERM, 1929

No. 528

BROAD RIVER POWER COMPANY, COLUMBIA RAILWAY, GAS AND ELECTRIC COMPANY, AND F. D. CAMPBELL, PETITIONERS,

versus

STATE OF SOUTH CAROLINA, EX REL., JOHN M. DANIEL, ATTORNEY GENERAL

MOTION TO ADVANCE THE CASE FOR HEARING

Comes now the appellees in the above entitled cause, by their counsel of record, and move that the hearing of the case be advanced to such a time as will make it certain to be heard at this term of the Court.

JOHN M. DANIEL,
Attorney General.

CORDIE PAGE,
Assistant Attorney General.

IRVIN F. BELSER,
C. T. GRAYDON,
W. S. NELSON,
E. W. MULLINS,
H. N. EDMUNDS,
Attorneys for Respondents.

THE R. L. BRYAN CO., COLUMBIA, S. C.

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MOTION TO ADVANCE THE CASE FOR HEARING

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BRIEF STATEMENT OF THE CASE AND REASONS FOR ADVANCING HEARING

This is an action or proceeding brought in the original jurisdiction of the Supreme Court of the State of South Carolina praying for a writ of mandamus to require appellants to operate street cars in the City of Columbia, South Carolina, and the adjoining territory.

The Columbia Railway, Gas & Electric Company was chartered and given a franchise to operate street cars, furnish electricity for lights and power, furnish fuel and lighting gas in the City of Columbia and adjoining territory. It operated all three branches of the service for many years. In 1924 the Broad River Power Company was chartered and subsequently acquired practically all of the stock of the Columbia Railway, Gas & Electric Company, and both companies had the same offices and officers. In 1925 the Columbia Railway, Gas & Electric Company, by its officers, attempted to sell to the Broad River Power Company, managed by the same officers, all of the electric and gas franchises and property, leaving the Columbia Railway, Gas & Electric Company in an insolvent condition, the only consideration for this transaction being the assumption of certain debts of the Columbia Railway, Gas & Electric Company. By this transaction the Broad River Power Company acquired approximately Six Million ($6,000,000.00) Dollars worth of property, for which it paid nothing. In 1927 the companies discontinued the operation of street cars, although the order of the Railroad Commission of South Carolina forbade their so doing. The case was referred to a Special Referee who took the testimony and recommended that the mandamus be denied. The Supreme Court of South Carolina reversed the findings of the referee and granted the writ of mandamus requiring the appellants to operate the street cars. The case is here for a review of this judgment.

The City of Columbia and the surrounding territory is suffering very seriously from the lack of transportation. It is of vital importance to the people of this section and of the State at large

that the case be determined at the earliest possible moment. No street cars whatsoever are now being operated and the Capital City of this State is without adequate means of public transportation. For that reason, it is urged that the case be advanced so that it will certainly be heard before the adjournment of the present Term of the Court.

The final hearing has already been too long delayed. After the suit was brought the Columbia Railway Gas & Electric Company filed a petition in bankruptcy and secured from the bankruptcy Court a stay of the proceedings in the State Court until the right of said appellant to go into bankruptcy was determined by the District Court and then it appealed to the Circuit Court of Appeals where it was decided that the said company was not entitled to the provisions of the Bankruptcy Act.

We have been advised from time to time by the Clerk of this Court that the case would probably be reached for hearing during this term, during the week commencing April 28. As soon as we learned that there was some doubt about the case being reached in its normal course during this term, and that it might go over to the October Term, notice of this motion to advance the cause was given to opposing counsel.

For all these reasons, we earnestly submit, that the motion should be granted and the case advanced for hearing.

JOHN M. DANIEL,
Attorney General.

CORDIE PAGE,
Assistant Attorney General.

IRVINE F. BELSER,
C. T. GRAYDON,
W. S. NELSON,
E. W. MULLINS,
H. N. EDMUNDS,
Attorneys for Respondents.

NOTICE OF MOTION TO ADVANCE THE HEARING

To William Marshall Bullitt, C. Edwards Paxson, George M. LePine, and W. C. McLain, Attorneys for Petitioners:

Please take notice, That the undersigned attorneys for appellees will move the Supreme Court of the United States at 12 o'clock Noon, or as soon thereafter as counsel can be heard, on April 14, 1930, to advance the hearing of this case to such a time as will make it certain to be heard at this Term of Court. A printed copy of this motion, as well as a brief statement of the matters involved, with the reasons supporting this motion, are herewith served upon you.

JOHN M. DANIEL,
Attorney General.

CORDIE PAGE,
Assistant Attorney General.

IRVINE F. BELSER,
C. T. GRAYDON,
W. S. NELSON,
E. W. MULLINS,
H. N. EDMUNDS,
Attorneys for Respondents.